

STAYING ACTION—FALSE IMPRISONMENT—DEFENDANT PROTECTED
BY STATUTE—PERSON DETAINED AS LUNATIC—DISCRETION.

Shackleton v. Swift (1913) 2 K.B. 304. This was an action for false imprisonment, brought by the plaintiff against the defendant, a master of a workhouse, for having, as alleged, improperly detained her as an alleged lunatic. The plaintiff had been placed in the workhouse under an order of a relieving officer, made under a statute requiring him to receive and detain her for three days. During that period a justice visited and examined the plaintiff, but made no order regarding her; but the medical officer of the workhouse, before the expiration of the three days, gave a certificate in writing, under the Lunacy Act, for her detention for fourteen days from its date. The plaintiff was detained for six days from the date of the certificate, and was then discharged by order of the medical officer. The Lunacy Act contains a provision to the effect that a person who does anything in pursuance of the Act shall not be liable to any civil or criminal proceedings, whether on the ground of want of jurisdiction, or on any other ground, if such person acted in good faith and with reasonable care. The defendant applied to stay the proceedings, on the ground that the action was not maintainable in the absence of any allegation that the defendant had not acted in good faith and with reasonable care, and that no facts were alleged to shew that the defendant had not so acted. The Master made an order staying the action, but Rowlatt, J., thought the action ought to be tried, and reversed the order, but the Court of Appeal (Williams, and Kennedy, L.JJ.), considered that on the facts disclosed in the affidavits, there was no evidence that the defendant had acted otherwise than in good faith, and with reasonable care, even assuming that the detention of the plaintiff after the original three days was unauthorised, in the absence of an order of a justice. Kennedy, L.J., was of the opinion that the medical certificate was, under the Act, a sufficient authority for the plaintiff's detention, and Williams, L.J., although not pronouncing as to the legality of the certificate, was yet of the opinion that the defendant, after its receipt, would not have been justified in discharging the plaintiff. Although the conclusion arrived at may be correct, it nevertheless looks somewhat like trying a case on affidavits on an interlocutory application.